

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Kara J. Thielen, Director)	Docket No. 911-005/DC-64
of the Nebraska Public Service)	
Commission Wireless E911)	
Department,)	
)	COMPLAINT
Complainant,)	
)	
v.)	
)	
Virgin Mobile,)	
)	
Defendant.)	

COMES NOW Kara J. Thielen, Complainant in the above-captioned cause, pursuant to Neb. Rev. Stat. § 75-156, as amended by Nebraska Legislative Bill 187 [2003], and for her complaint against Virgin Mobile, Defendant, alleges as follows:

1. Complainant is the Director of the Wireless E911 Department of the Nebraska Public Service Commission (Commission) and is the custodian of the Commission Wireless E911 Department documents and records.

2. Defendant, Virgin Mobile, is a wireless carrier.

3. Upon information and belief, Defendant is providing service to customers in Nebraska.

4. Upon information and belief, Virgin Mobile has been providing service to customers in Nebraska since June of 2002.

5. Until July 15, 2003, Defendant had failed to remit any surcharge monies to the Nebraska Public Service Commission as required by Neb. Rev. Stat. § 86-457 (2002 Cum. Supp.).

6. Pursuant to Neb. Rev. Stat. §§ 86-457 (2002 Cum. Supp.) and 75-156 as amended by LB 187 [2003], the Commission is

the appropriate public body to enforce state law regarding collection of the Enhanced Wireless 911 Surcharge.

WHEREFORE, Complainant prays the Commission for an order levying a civil penalty against the Defendant pursuant to Neb. Rev. Stat. § 75-156, as amended by LB 187 [2003], for each offense herein described and for any other order the Commission deems appropriate and is within its jurisdiction to render, including any remedy consistent with state and federal law.

DATED this 9th day of September, 2003.

KARA J. THIELEN, Complainant

BY_____

Laura Davenport Demman #21933
Attorney for Complainant
P.O. Box 94927
Lincoln, NE 68509
(402) 471-3101

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Kara J. Thielen, being first duly sworn, deposes and says that she is the duly appointed and qualified Director of the Wireless E911 Department of the Nebraska Public Service Commission, that she is the Complainant in the foregoing pleading; that she has read the allegations contained therein and understands them to be true to the best of her knowledge and belief.

Kara J. Thielen, Complainant

SUBSCRIBED AND SWORN to before me this ____ day of September, 2003.

Notary Public

S E A L

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing COMPLAINT was mailed postage prepaid by US Mail to _____ for the Defendant, Virgin Mobile, at _____, this ____ day of September, 2003.

N O T I C E

1. Pursuant to Neb. Admin. R. & Regs., Title 291, Ch. 1, Rule 005.09, the Defendant is hereby notified that an answer to this complaint shall be filed with the Nebraska Public Service Commission at 300 The Atrium, 1200 N Street, P.O. Box 94927, Lincoln, Nebraska 68509. The answer shall admit or deny each material allegation of the complaint. The answer shall assert any affirmative defenses which the Defendant may assert. The answer shall be filed with the Commission within twenty (20) days after service of the complaint. Except for good cause shown, failure to answer will be construed as an admission of the allegations in the complaint.
2. Failure to file an answer or to appear at hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided by law; or (b) to proceed with the hearing and receive evidence of the alleged violation and to assess a civil penalty as provided by law.
3. Upon failure to pay any civil penalty determined by the Commission, such civil penalty unpaid shall constitute a debt to the State of Nebraska and be collectible by civil action in the District Court of Lancaster County, Nebraska.